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February 25, 2008

VIA FACSIMILE

The Honorable Charles L. Briant
United States District Court
Southern District of New York
300 Quarropas Street, Room 275
White Plains, NY 10601

Re: Basile v. Spagnola, et al., 07-Civ-11247 (CLB) (LMS)

Dear Judge Briant:

The Attorney General represents Defendants Donny Eschrich, Kevin Dlouhy, Richard Iucle, Ramesh Mehta, and New York State Thruway Authority in this action, which is a retaliation claim under Title VII and under 42 USC § 1983. I write regarding the Court's order scheduling a conference on this coming Friday, February 29, 2008.

On February 15, 2008, I filed a motion to dismiss this case pursuant to FRCP 12(b)(6). Soon afterward, counsel for co-defendant Walter Spagnola filed a similar motion pursuant to FRCP 12(c). This morning at 10:30 a.m., believing that the respective motions might render the conference unnecessary, I telephoned counsel for Plaintiff and for co-defendant Walter Spagnola requesting their consent to an adjournment of the conference pending this Court's resolution of the motions. Counsel for Walter Spagnola consented. Plaintiff's counsel, for his response, filed a First Amended Complaint and sent a letter-brief to this Court arguing that the Amended Complaint is legally sufficient. By doing so, of course, Plaintiff's counsel has conceded the merits of Defendants' Motion To Dismiss.

Upon reading the First Amended Complaint and reviewing the cases cited therein, and conducting some additional research, I have preliminarily concluded that Plaintiff has not cured the deficiencies in her original Complaint. To the contrary, by specifically alleging that the individual defendants at all times acted outside the scope of their employment, Plaintiff has

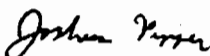
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completely precluded any cause of action under Title VII or under § 1983. Therefore, I will, in all likelihood, file another Motion To Dismiss the First Amended Complaint.

In light of Plaintiff's First Amended Complaint and the consequent need to respond to it, along with the now increased likelihood that Plaintiff has no cause of action, I believe that a conference at this time is unnecessary. Discovery in this case should wait until the Court can rule upon the likely motions to dismiss, or at least until Defendants have had the opportunity to respond to the First Amended Complaint. Therefore, I respectfully request that the Court postpone the conference until it has resolved these issues.

Respectfully,



Joshua Pepper
Assistant Attorney General

cc: Jonathan Lovett
Michael Santangelo